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STATE OF MICHIGAN

IN THE 60TH DISTRICT COURT FOR THE COUNTY OF MUSKEGON

THE PEOPLE OF THE STATE OF MICHIGAN,

District Court File  
Number 14-157092-FY

v

DEREK JAMES RAINBOLT,

Circuit Court File  
Number 14-064458-FH

Defendant.

PRELIMINARY EXAMINATION

and

DEFENDANT'S MOTION TO REDUCE BOND

BEFORE THE HONORABLE HAROLD F. CLOSZ, III, DISTRICT JUDGE

Muskegon, Michigan - Wednesday, July 2, 2014

APPEARANCES:

For the People:

MISS CHRISTINA E. JOHNSON (P76893)  
Assistant Prosecuting Attorney  
Muskegon County Prosecutor's Office  
990 Terrace Street  
Muskegon, MI 49442  
(231) 724-6435

For the Defendant:

MISS PAULA A. BAKER (P49354)  
Attorney at Law  
141 East Apple Avenue  
Muskegon, MI 49442  
(231) 724-6585

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THIRD DISTRICT

LORI KING, CER 6092  
OFFICIAL COURT RECORDER - 60TH DISTRICT COURT  
MUSKEGON, MICHIGAN

CALENDARED

TABLE OF CONTENTS

WITNESSES: PEOPLE

PAGE

ALYSSA WARD

Direct examination by Miss Johnson  
Cross-examination by Miss Baker

6  
13

Defendant's Motion to Reduce Bond

24

WITNESSES: DEFENDANT

NONE

EXHIBITS:

IDENTIFIED

RECEIVED

NONE

**LORI KING, CER 6092**

OFFICIAL COURT RECORDER - 60TH DISTRICT COURT  
MUSKEGON, MICHIGAN

1 Muskegon, Michigan

2 Wednesday, July 2, 2014 - 9:26 a.m.

3 THE COURT: This is file 14-157092-FY. State of  
4 Michigan versus Derek James Rainbolt. Date and time set for a  
5 preliminary examination, or is it? It's a prelim as well as a  
6 Motion. Deal with the prelim first.

7 Miss Johnson on behalf of the People, and Miss Baker  
8 on behalf of the Defendant. Are the People ready to proceed?

9 MISS JOHNSON: Yes, Your Honor.

10 THE COURT: Defense ready to proceed?

11 MISS BAKER: I am, Your Honor. I would just move to  
12 sequester any potential trial witnesses in this matter.

13 MISS JOHNSON: Judge, the People would oppose that  
14 motion. If -- if the witnesses are here, they are not here to  
15 testify at prelim.

16 THE COURT: Is this a remand?

17 MISS JOHNSON: It is, Your Honor.

18 MISS BAKER: It is, Your Honor.

19 MISS JOHNSON: And I do have a proposed Amended  
20 Information.

21 THE COURT: The -- well, okay, what's the proposed  
22 Amended Information?

23 MISS JOHNSON: It's charging CSC First Degree.

24 THE COURT: The -- okay, somebody want to fill me in  
25 on what's going on here? This case apparently was previously

1       waived.

2               MISS BAKER: It was waived by other counsel, Your  
3 Honor.

4               THE COURT: It was. It was waived by retained  
5 counsel, went up to circuit court, and now it's back down.

6               MISS JOHNSON: Yes.

7               THE COURT: Is there a particular reason? What's  
8 going on?

9               MISS JOHNSON: Your Honor, it was originally charged  
10 as a CSC Third Degree by the People with the hope of a resolu-  
11 tion. We got up to the eve of trial. There was no resolution  
12 on that charge so we have now -- we filed a Geoke Motion in  
13 front of Judge Marietti to amend the Information to a CSC  
14 First Degree which is the proper charge in this case --

15              THE COURT: Got you.

16              MISS JOHNSON: -- according -- you know, which I'll  
17 prove is the proper charge today, I guess. And Miss Baker  
18 requested it be remanded for preliminary examination on the  
19 Amended Information.

20              THE COURT: Okay, is that right?

21              MISS BAKER: That's a fair statement of what's going  
22 on. I just would indicate that they had filed a list of  
23 witnesses who would be testifying at trial, Your Honor, and I  
24 think that their observation in listening to the prelim  
25 testimony would unfairly prejudice my client; so, I'd ask that

1       they not be allowed to be in the courtroom during the course  
2       of this hearing.

3               THE COURT:   The -- I'm going to have all prospective  
4       witnesses have a seat in the hall.

5               MISS JOHNSON:   Your Honor, may I be heard as to one  
6       of the particular witnesses?   One of the witnesses is Miss  
7       Diane Adams.   She is the therapist that has been treating the  
8       victim in this case, Alyssa Ward.   I do have her listed on my  
9       trial witness list.   She obviously has no first-hand knowledge  
10      of what happened.   I don't believe any of her testimony could  
11      be influenced by hearing the victim's testimony today as she's  
12      heard the victim's version of events I'm sure multiple times,  
13      and she is here today in the capacity of support for the  
14      victim as she testifies.

15              MISS BAKER:   Your Honor, as much as I -- I appre-  
16      ciate the sensitive nature of this particular case, we are  
17      dealing with a teenage girl who has, by her own admission, a  
18      history of lying about sexual acts.   And Miss Adams was added  
19      just on the eve of trial as a potential trial witness, and I  
20      think that we can't prospectively project what we think the  
21      witness is going to testify, and Miss Johnson's belief about  
22      whether Miss Adams' testimony can be influenced by testimony  
23      heard in the courtroom is just that.   A belief.   And I think  
24      we need to preclude any potential prejudice to my client.

25              THE COURT:   I am going to maintain that any and all

1 witnesses including your -- I'm sorry, who was it?

2 MISS JOHNSON: Diane Adams.

3 THE COURT: -- Miss Adams be excluded from the  
4 courtroom.

5 MISS BAKER: Thank you, Your Honor.

6 THE COURT: The -- so, all witnesses or prospective  
7 witnesses have a seat in the hallway and don't talk about your  
8 testimony with anyone.

9 (At 9:30 a.m., witnesses sequestered)

10 THE COURT: Okay, with that, Miss Johnson, you want  
11 to call your first witness?

12 MISS JOHNSON: Thank you, Your Honor. The People  
13 call Alyssa Ward.

14 THE BAILIFF: Raise your right hand, please. In the  
15 matter now pending before the Court, do you solemnly swear or  
16 affirm to tell the truth, the whole truth, and nothing but the  
17 truth, so help you God?

18 MISS WARD: I do.

19 THE BAILIFF: Please have a seat and state your full  
20 name for the record and spell your first and last.

21 THE WITNESS: Alyssa Ward. A-l-y-s-s-a W-a-r-d.

22 ALYSSA WARD

23 (At 9:31 a.m., called as a witness, testified as follows)

24 DIRECT EXAMINATION

25 BY MISS JOHNSON:

**LORI KING, CER 6092**  
OFFICIAL COURT RECORDER - 60TH DISTRICT COURT  
MUSKEGON, MICHIGAN

1 Q Alyssa, how old are you?

2 A Sixteen.

3 Q What's your date of birth?

4 A January 6th, 1998.

5 Q Alyssa, do you know somebody by the name of Derek Rainbolt?

6 A Yes.

7 Q Who is he?

8 A My father.

9 Q Do you see him in the courtroom today?

10 A Yes.

11 Q Can you please point to him and tell me what he's wearing?

12 A A jumper. (Whereupon witness indicated)

13 MISS JOHNSON: Your Honor, may the record reflect  
14 the witness has identified the Defendant?

15 THE COURT: It will.

16 BY MISS JOHNSON:

17 Q Alyssa, do you know what you are here to talk about today?

18 A Yes.

19 Q What are you here to talk about today?

20 A The rape.

21 Q Before we talk about the details of that, I want to ask you  
22 where did that happen?

23 A At his computer shop, Computers Plus.

24 THE COURT: I'm sorry. What, ma'am?

25 THE WITNESS: His old computer shop, Computers Plus.

1 BY MISS JOHNSON:

2 Q Alyssa, is that located -- was that located at 4759 Airline  
3 Road?

4 A Yes.

5 Q Is that address -- is that in the Fruitport Township in the  
6 county of Muskegon, state of Michigan?

7 A Yes.

8 Q And the event that we are going to be talking about, when did  
9 that happen?

10 A When I was in eighth grade.

11 Q Alyssa, what grade did you just finish?

12 A Tenth.

13 Q And so eighth grade would have been the school year of the  
14 2011-2012 school year, is that right?

15 A Yes.

16 Q And you would have been 13 when you entered eighth grade?

17 A Yes.

18 Q And turned 14 in January of eighth grade?

19 A Yes.

20 Q Okay, do you remember when in eighth grade this event  
21 happened?

22 A It happened over a school break.

23 Q Do you remember which school break?

24 A No.

25 Q Okay, on the day that this event happened, were you staying



1 with your dad?

2 A Yes.

3 Q How did you get to the computer shop?

4 A We were at the trailer and Sarah needed to work so the girls  
5 needed to go to her mom's house.

6 Q Who is Sarah?

7 A My stepmom.

8 Q Okay, so, who -- how did the girls get to her mom's house?

9 A They went with Sarah.

10 Q Okay, and so then who was at the trailer?

11 A Me and my dad.

12 Q And what happened while you and your dad were at the trailer?

13 A He said he needed to go clean up his shop so it could open the  
14 next day.

15 Q Did you go with him to the shop to clean it?

16 A Yes.

17 Q Okay, can you tell me about the layout of that shop?

18 A It was a big -- the big main area and then there was a small  
19 office in the back and off to the side --

20 Q Okay.

21 A -- there was a open area with a bathroom to the side.

22 Q Okay, what's in that back room?

23 A The back room without the door separating it there was air  
24 mattresses and pop bottles and a bunch of garbage.

25 Q Why were there air mattresses in the back room of the shop, if

1           you know?

2   A       Why?

3   Q       Yes.

4   A       Because he was sleeping there.

5   Q       What happened when you went there to the shop?

6   A       We cleaned up the shop for a few hours.

7   Q       Okay, and at some point were you playing a computer game or  
8           watching TV in the back room?

9   A       Yes.

10   Q       Okay, what happened while you were watching -- was it -- was  
11           it a computer game or was it TV?

12   A       It was Netflix on the computer.

13   Q       Okay, Netflix on the computer. Okay. What happened while you  
14           were watching Netflix?

15   A       He came back and said that we were sleeping at the shop  
16           because he had to be up early anyway.

17   Q       And when you say "he", you mean your dad?

18   A       Yes.

19   Q       Okay, how did you react when he said you were sleeping at the  
20           shop?

21   A       I was confused. I thought we were going back to the trailer.

22   Q       Did you -- well, what happened after he said that?

23   A       He turned off the lights and told me I had to lay on the air  
24           mattress.

25   Q       And did you do so?

1 A Yes.

2 Q Okay, what happened when you were laying on the air mattress?

3 A I continued watching Netflix and then he removed his shirt and  
4 laid down which I thought was normal because I didn't think  
5 anything of it at first.

6 Q How many air mattresses were in the back room?

7 A One.

8 Q So, did he lay down on the same one that you were on?

9 A Yes.

10 Q Okay, what happened then?

11 A I'm sorry.

12 Q It's okay. Take your time.

13 A He told me to get comfortable and to take off my jean shorts  
14 because they weren't going to be comfortable to sleep in.

15 Q Did you do so?

16 A Yes.

17 Q What happened next?

18 A We laid on the air mattress and continued watching Netflix  
19 until he started to move closer, and he put his arms around me  
20 which at first I didn't think anything of it, and then it  
21 escalated, and he got up, and he went into the bathroom, and  
22 he changed, and he came back out in his boxers and laid back  
23 down.

24 Q What happened when he laid back down?

25 A At first he just continued to have his arms around me and then

1 he moved onto his back and told me to stand up.

2 Q Did you stand up?

3 A Yes.

4 Q What happened when you were standing?

5 A He told me to remove my underwear.

6 Q Did you do that?

7 A Not at first.

8 Q What did he do when you didn't do it at first?

9 A He told me to hurry up and take them off.

10 Q What happened next?

11 A I was scared, and then I did what he told me to do and I --  
12 and then he told me to move back onto the air mattress over  
13 him.

14 Q And did you do that?

15 A Yes.

16 Q What happened when you moved over him?

17 A He grabbed my hips and pulled me down on top of him.

18 Q When you were on top of him, what was he wearing?

19 A He had pulled his boxers down.

20 Q At that time, did he penetrate you?

21 A Yes.

22 Q Okay, when I say that, can you describe what exactly happened  
23 there?

24 A Penis going into a vagina.

25 Q Okay, how long did that last for?

1 A I don't know.

2 Q Did he say anything?

3 A No, not until he stopped and he told me to stand up and go  
4 clean up in the bathroom.

5 Q Okay, did he say anything else at that time?

6 A Not until I came back out of the bathroom.

7 Q Okay, what did he say when you came back out of the bathroom?

8 A He told me that I couldn't tell anybody because I know what  
9 would happen.

10 Q Did he elaborate any further on what would happen?

11 A No.

12 Q Okay, what did you think he meant by that?

13 A That I would be in trouble.

14 Q Okay, thank you, Alyssa. I don't have any more questions for  
15 you today.

16 THE COURT: Miss Baker?

17 CROSS-EXAMINATION

18 BY MISS BAKER:

19 Q Miss Ward, this was a school break. What kind of school --  
20 school break was it?

21 A It wasn't a weekend. It was like when you have the days off  
22 school like spring break or Christmas break. I don't know  
23 which one.

24 Q You don't remember what the weather was like outside?

25 A No.

1 Q Well, you said that you were wearing jean shorts, right?

2 A Yes.

3 Q So, it wouldn't have been Christmas break?

4 A No.

5 Q Okay, so, do you recall what time of year this happened?

6 A No.

7 Q Now, you started out at the trailer with Sarah and the other  
8 girls?

9 A Yes.

10 Q Now, was there only one car that they used?

11 A No.

12 Q They had two?

13 A There was a van and a white car.

14 Q And isn't it true that your dad would go pick up Sarah from  
15 work?

16 A On occasion.

17 Q Isn't it true that you stopped seeing your dad in -- in 2012,  
18 correct?

19 A I seen my dad off and on because he didn't come around.

20 Q Isn't it true that you only visited with your dad two times in  
21 2012?

22 A No.

23 Q Is it also true that every time you saw your dad in 2012, you  
24 were with Sarah --

25 A I don't know.

1 Q -- his fiancé'?

2 A I don't know.

3 Q You don't know or you don't remember?

4 A I don't remember.

5 Q Now, you had very limited contact with your father from 2010  
6 to 2012, right?

7 A Yes.

8 Q Most of your visits occurred during Christmas and your birth-  
9 day, right?

10 A No.

11 Q Would it also be fair to say that most of your visits were to  
12 Mr. -- to Sarah and his -- and their daughters?

13 A Excuse me?

14 Q From 2010 to 2012, would it be fair to say that most of your  
15 visits to your dad or with your dad involved Sarah and the two  
16 girls?

17 A Yeah.

18 Q And would you also agree that there was very little time that  
19 you were alone with your dad during that time?

20 A I was hardly there; but when I was, there were times I was  
21 alone with him.

22 Q And you are certain that this happened during your eighth  
23 grade year, correct?

24 A Yes.

25 Q So, 2012?

1 A Whatever year that was.

2 Q How big was this air mattress in the back room?

3 A A twin size.

4 Q A twin size --

5 A Twin or --

6 Q -- air mattress?

7 A -- twin or full.

8 Q And both you and your father were laying on this air mattress?

9 A Yes.

10 Q And are we talking about an air mattress that you would take  
11 like camping or something different?

12 A A air mattress that you would take camping.

13 Q Okay, does it -- so, a very thin one?

14 A Yes.

15 Q So, when you're laying on this air mattress, you didn't fall  
16 off it?

17 A No.

18 Q Now, had you been to -- to your father's computer store before  
19 that event?

20 A Yes.

21 Q How -- approximately how many times?

22 A I don't know. I don't remember.

23 Q Can you tell us approximately how many times you visited with  
24 your father during your eighth grade year?

25 A Whenever I was asked.



1 Q Would you characterize the relationship between your mother  
2 and father as good?

3 A No.

4 Q Would you characterize your relationship with your father as  
5 good at that time?

6 A No.

7 Q Would you characterize your mother and your relationship as  
8 good during that time?

9 A Yeah.

10 Q Now, you indicated that you had at least -- you talked to a  
11 police officer about this, right?

12 A Yes.

13 Q You also talked to a protective services worker, correct?

14 A I've talked about it many times to many prosecutors.

15 Q You've talked to prosecutors about this?

16 A Yes.

17 Q Approximately how many times?

18 A Two or three maybe.

19 Q Two to three times with prosecutors?

20 A Every time you guys have waived it.

21 Q So, you talked today with the prosecutor?

22 A Not about this.

23 Q But two to three other times before this?

24 MISS JOHNSON: Objection. Relevance.

25 THE COURT: Overruled. Go ahead.

1 BY MISS BAKER:

2 Q You've talked to them two or three other times as well?

3 A Yes. Not the same one.

4 Q Before you talked to the prosecutors, you also talked to DHS  
5 workers or protective services workers, correct?

6 A Maybe once or twice.

7 Q And during that -- during your interview with them, you  
8 indicated that you had lied about sexual activity in your  
9 past, correct?

10 A No.

11 Q You didn't?

12 A No.

13 Q Well, let me just ask you this, Miss Ward. Do you remember  
14 talking to Kim Watson?

15 A Yes.

16 Q When you met with Kim Watson, you were at the Child Abuse  
17 Council, correct?

18 A Yes.

19 Q And did you tell her that you had done sexual things in the  
20 past and had lied about it?

21 MISS JOHNSON: I'd object to improper impeachment.  
22 The defense does not have the witness here to impeach the  
23 victim if she testifies inconsistently.

24 MISS BAKER: I don't think that's improper impeach-  
25 ment. I can ask her about her prior inconsistent statement.

1 THE COURT: I think you can too. Overruled.

2 THE WITNESS: Can you repeat the question?

3 MISS BAKER: Sure.

4 BY MISS BAKER:

5 Q Did you tell Kim Watson that you had done sexual things in the  
6 past and had lied about it?

7 A No.

8 Q Is it true that you'd been having problems with lying with  
9 your family --

10 A Small things.

11 Q -- during that same time frame?

12 A Yes.

13 Q And isn't it true that when you -- just before you reported  
14 this, you had been get -- you had gotten in trouble with your  
15 mom?

16 A This was the reason I did get in trouble.

17 Q And isn't it true back in 2012 there had been a meeting  
18 involving your mom, your stepdad, your stepmom, and your dad  
19 about how you were lying about things?

20 A What year?

21 Q In 2012.

22 A Possibly. I don't remember.

23 Q And did you, on the night that you say this happened, sleep at  
24 that location?

25 A No.

1 Q Where did you end up sleeping?

2 A After what happened happened, he told me to get up.

3 Q Where did you end up sleeping?

4 A I'm answering your question. I ended up sleeping at Sarah's  
5 mom's.

6 Q How did you get there?

7 A Like I was saying, after what happened happened, he told me to  
8 get dressed and brought me there.

9 Q Okay, did you tell Sarah's mom?

10 A No.

11 Q Was he there when you were sleeping there?

12 A He dropped me off.

13 Q He dropped you off. Okay, so, you were there with Sarah's mom  
14 and --

15 A The girls.

16 Q -- Stormy and Zoe?

17 A Yes.

18 Q And how old are they?

19 A Now or then?

20 Q Then.

21 A Zoe was probably three or four. Zoe -- or Stormy maybe one --  
22 two.

23 Q All right, was Sarah there as well?

24 A No. She was at work.

25 Q But Sarah's mom was there?

**LORI KING, CER 6092**

**OFFICIAL COURT RECORDER - 60TH DISTRICT COURT  
MUSKEGON, MICHIGAN**

1 A Yes.

2 Q And did you have an opportunity to talk to Sarah's mom?

3 A As soon as I got there, I went to bed.

4 Q You didn't say anything to Sarah's mom?

5 A I said, "Hi" and "Good night."

6 Q And did you tell her in the morning?

7 A No.

8 Q Would you -- well, you had a good relationship with her,  
9 didn't you?

10 A I suppose decent.

11 Q Did you tell your mom the next day?

12 A No.

13 Q Why not?

14 A I was scared. I still didn't believe it myself.

15 Q Now, you indicated that you were told not to tell anybody  
16 because you know what would happen. Did he threaten you  
17 physically?

18 A No.

19 Q Did he threaten to hurt you?

20 A No.

21 Q Was the home where Sarah's mom lived the same place where  
22 Sarah lived?

23 A On occasion. They were back and forth staying in the trailer  
24 to with her mom which is why there was a air mattress at the  
25 shop.

1 Q So, you don't remember if Sarah was living at her mom's house  
2 or at the trailer?

3 A Correct.

4 Q This location in the computer shop, was it daytime -- when you  
5 were at the computer shop, was it daytime or nighttime?

6 A Nighttime.

7 Q Was it dark out or light out?

8 A Dark.

9 Q And tell me, are there windows in this computer shop?

10 A In the very front.

11 Q And those windows face a big parking lot, correct?

12 A Yes.

13 Q They don't have any blinds on them, do they?

14 A No.

15 Q And were the lights on inside the computer shop?

16 A No.

17 Q You didn't turn the lights on to clean the shop?

18 A Yes. We turned them on to clean the shop. They were turned  
19 off --

20 Q Okay.

21 A -- once what happened took place.

22 Q And it -- it's -- in this office area, there's no door,  
23 correct?

24 A On one half.

25 Q I don't understand that question. Is there a door or not?

1 A There's two back rooms. It depends which one you're talking  
2 about.

3 Q Well, the room with the air mattress, did it have a door?

4 A No.

5 Q So, anyone in the computer shop would have been able to see  
6 into that room, correct?

7 A No. It was in a L-shaped.

8 MISS BAKER: All right, thank you. I have nothing  
9 further at this time.

10 THE COURT: Anything else?

11 MISS JOHNSON: No, Your Honor.

12 THE COURT: I have no questions. You may stand  
13 down.

14 (At 9:53 a.m., witness excused)

15 MISS JOHNSON: For the purposes of preliminary  
16 examination, the People rest.

17 THE COURT: Miss Baker, do you wish to call any  
18 witnesses?

19 MISS BAKER: No, I do not for purposes of  
20 preliminary exam, Your Honor.

21 THE COURT: All right.

22 MISS JOHNSON: I move for bind over on the Amended  
23 Information, Your Honor.

24 THE COURT: Miss -- Miss Baker, any response?

25 MISS BAKER: I oppose.

1 THE COURT: All right. The testimony indicates that  
2 between 2011 and 2012 when Miss Ward was 14 or 15 years old,  
3 but between the ages of 13 and 16, that --

4 MISS JOHNSON: I'm sorry, Your Honor, the testi-  
5 mony was in eighth grade she was 13 to 14 years old during  
6 eighth grade. And not that it matters for the Information but  
7 just --

8 THE COURT: Doesn't matter.

9 MISS JOHNSON: -- to set the record straight.

10 THE COURT: All right, the -- well, let's see here.  
11 Yeah, she wouldn't have been 15. Her birthday's January 6,  
12 1998, so she would have been 13 or 14. You're right. Anyway,  
13 it doesn't make any difference -- 13 to 16 years old.

14 At 4759 Airline Road, that, in fact, the Defendant  
15 who is her natural father had sexual intercourse -- penetra-  
16 tion with her penis/vagina which is what the Amended Informa-  
17 tion alleges. Therefore, the case will be bound over to  
18 circuit court on the Amended Information, Criminal Sexual  
19 Conduct in the First Degree.

20 There was a Motion with regard to bond. Go ahead.

21 MISS BAKER: Thank you, Your Honor. Your Honor,  
22 Mr. Rainbolt has -- has been incarcerated on this hundred  
23 thousand dollar cash/surety bond since he turned himself in  
24 on May 9th of 2014. He has protested his innocence. As you  
25 can see, he's gone -- been prepared to go to trial. His --



1 he cooperated with the investigation and knew about the  
2 investigation and did not flee the area. And I -- and, as I  
3 indicated, he turned himself in. He has his mother who is  
4 present in the courtroom as well who is prepared to be a  
5 family surety. He has family ties through this community. As  
6 the Court can see, he has other children here; and he was  
7 actually running a business at the time of his arrest and he  
8 had plans I -- I think to expand that business which have  
9 basically been extinguished at this point in time. However,  
10 he is capable of working in the community.

11 As you can see, there are some issues in this case  
12 and, with respect to the victim, he is not a -- he is not a  
13 threat to her because he did not interfere with this investi-  
14 gation, Your Honor. He has some criminal history as the Court  
15 can see, but his last con- -- his felony convictions are from  
16 1999. He had a Retail Fraud Third in 2002 and, other than  
17 that, he's only had traffic tickets. I think, under the  
18 circumstances, that his -- this justifies a reduction in bond;  
19 and we would ask that the Court reduce his bond and allow him  
20 to be a productive member in society before his trial.

21 THE COURT: Miss Johnson?

22 MISS JOHNSON: Your Honor, procedurally, I want the  
23 Court to be aware that this Court heard the Motion to Reduce  
24 Bond at the original preliminary examination in February and  
25 denied the Motion at that time. Procedurally, what has

**LORI KING, CER 6092**

**OFFICIAL COURT RECORDER - 60TH DISTRICT COURT  
MUSKEGON, MICHIGAN**

1 happened since then is at -- at that preliminary examination,  
2 at a pre-trial conference in circuit court, and at a Cobbs  
3 Hearing -- which I will say were all with a different defense  
4 attorney -- at each of those hearings, it was discussed with  
5 his counsel that if a resolution couldn't be reached in this  
6 case as it was charged as a CSC Third, that we would be  
7 amending the Information for the CSC First. When it became  
8 clear that there was not a resolution in this case, we filed  
9 our Geoke Motion to do so. That trial had been set for  
10 June 3rd. At the time the People were prepared to proceed  
11 with trial. It became remanded at the Defendant's request.  
12 We have met our burden here today. It's -- the -- really the  
13 only thing that has changed is the trial has been delayed at  
14 the Defendant's request, and I don't believe his request for a  
15 delay to get this remanded is good cause for the bond to be  
16 reduced, and so I'd ask the Court to deny that Motion. He is  
17 a danger to society and, specifically, to his daughter and  
18 possibly to his other two daughters.

19 THE COURT: Any response?

20 MISS BAKER: Well, Your Honor, I can tell you that I  
21 was appointed -- or our office was appointed on May 12th, so  
22 we were appointed approximately two weeks before the trial. I  
23 did not have at that time all of the information. In fact,  
24 when I -- when I first met with the prosecutor about this  
25 case, they handed me evidence which hadn't been provided

**LORI KING, CER 6092**

**OFFICIAL COURT RECORDER - 60TH DISTRICT COURT  
MUSKEGON, MICHIGAN**

1 previously to the previous defense counsel. So, you know, two  
2 weeks or two to three weeks before the trial date, they are  
3 providing me evidence and then telling me that they are  
4 Geokeing a First Degree Criminal Sexual Conduct. That's  
5 procedural but, under the circumstances, Your Honor, as you  
6 can see from this case, that there are some issues with this  
7 particular victim. There is not necessarily a high likelihood  
8 of conviction in this matter. What we have here is a man who  
9 is protesting his innocence and, because he's not knuckling  
10 down to the plea or to plea, they're Geokeing or adding a  
11 higher charge which is within their discretion. That's fine.  
12 It's happening routinely up in circuit court, but it's fine if  
13 you -- if they want to do that; but to then punish him for  
14 trying to exercise his constitutional right is a bit unfair.  
15 He is not a threat to his child. I don't think they can  
16 establish any contact between him since 2012 and his daughter  
17 that was nonconsensual. If they don't want him around her,  
18 great. He doesn't want to be around her given the circum-  
19 stances of this offense. If the Court wants to limit who he  
20 has contact with, the Court can do that as a condition of his  
21 bond. But I think, under the circumstances, a bond reduction  
22 is appropriate; so we would ask you to consider our Motion.

23 THE COURT: All right, I'm going to change the bond.  
24 The bond is going to be two hundred thousand. It's going to  
25 be 10 percent. I'm not going to obviously give a family

1 surety bond or whatever. The condition of your bond obviously  
2 is you're not to have any contact with the alleged victim in  
3 this case in any way, shape, or form. Do you understand?

4 THE DEFENDANT: (Defendant nodded head)

5 THE COURT: Speak.

6 THE DEFENDANT: Yes.

7 THE COURT: The -- okay, so --

8 MISS BAKER: So, it's a 10 percent?

9 THE COURT: Of two hundred thousand.

10 MISS BAKER: Two hundred thousand?

11 THE COURT: Which is twenty thousand.

12 MISS BAKER: Thank you, Your Honor.

13 THE COURT: Thank you.

14 (At 10:02 a.m., proceeding concluded)

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**LORI KING, CER 6092**

**OFFICIAL COURT RECORDER - 60TH DISTRICT COURT  
MUSKEGON, MICHIGAN**

1 STATE OF MICHIGAN )  
2 )  
3 COUNTY OF MUSKEGON )

4

5 I certify that this transcript, consisting of 29 pages,  
6 is a complete, true and correct transcript of the proceedings and  
7 testimony taken in this case on July 2, 2014.

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9 Date: August 12, 2014

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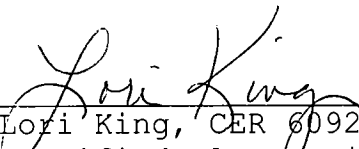
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Lori King, CER 6092  
Certified Electronic Recorder  
990 Terrace Street, Second Floor  
Muskegon, MI 49442  
(231) 724-6330

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